

House File 2270 - Introduced

HOUSE FILE 2270

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A BILL FOR

1 An Act relating to powers and duties applicable to state of
2 disaster emergencies and public health disasters.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 29C.6, subsection 1, Code 2022, is
2 amended to read as follows:

3 1. a. After finding a disaster exists or is threatened,
4 proclaim a state of disaster emergency. This proclamation
5 shall be in writing, indicate the area affected and the facts
6 upon which it is based, be signed by the governor, and be
7 filed with the secretary of state. If the state of disaster
8 emergency specifically constitutes a public health disaster
9 as defined in [section 135.140](#), the written proclamation shall
10 include a statement to that effect. A state of disaster
11 emergency shall continue for thirty days, unless sooner
12 ~~terminated or rescinded~~, extended in writing, or amended by
13 the governor general assembly. The general assembly may,
14 by concurrent resolution, rescind, extend, or amend this
15 proclamation. Any initial extension of this proclamation by
16 the general assembly shall not exceed sixty days, and any
17 subsequent extension shall not exceed sixty-day increments.
18 If the general assembly is not in session, the legislative
19 council may, by majority vote, rescind, extend, or amend this
20 proclamation only once and any extension shall not exceed
21 thirty days. Rescission Following any rescission, extension,
22 or amendment of this proclamation by the legislative council,
23 any additional action may only be taken by the general
24 assembly. Any rescission, extension, or amendment shall be
25 effective upon the filing of the concurrent resolution or
26 resolution of the legislative council with the secretary of
27 state. A proclamation of disaster emergency shall activate the
28 disaster response and recovery aspect of the state, local, and
29 interjurisdictional disaster emergency plans applicable to the
30 political subdivision or area in question and be authority for
31 the deployment and use of any forces to which the plan applies,
32 and for use or distribution of any supplies, equipment, and
33 materials and facilities assembled, stockpiled, or arranged to
34 be made available.

35 b. A measure dictated in a state of disaster emergency

1 proclamation shall not do any of the following:

2 (1) Infringe on a fundamental constitutionally protected
3 right unless the measure is justified by a compelling state
4 interest, is narrowly tailored to achieve its specific purpose,
5 and is achieved by the least restrictive means possible.

6 (2) Restrict rights, interests, or activities in a manner
7 that is not neutral or generally applicable.

8 (3) Prohibit in-person interactions between religious
9 leaders or individuals who are related by consanguinity or
10 affinity with patients or residents of hospitals or health care
11 facilities.

12 (4) Authorize the use of mobile, cellular, or any other
13 digital technologies to track or surveil persons without
14 providing prior notice to and receiving consent from such
15 persons.

16 (5) Authorize the use of any drones, unmanned
17 aerial vehicles, advanced robotics, or any artificial
18 intelligence-based systems to enforce the proclamation.

19 (6) Restrict the practice of a person holding a valid
20 license to practice a health-related profession regulated
21 by a board designated pursuant to section 147.13 or by the
22 department of public health, or restrict the scope of service
23 delivery of a hospital, clinic, or health care professional if
24 the person or entity is otherwise practicing within the scope
25 of a valid license.

26 (7) Allow a board designated pursuant to section 147.13 to
27 restrict the prescribing authority of a licensed health-related
28 professional in a way that acts as a deterrent for a prescriber
29 to use a medication or treatment in accordance with the
30 prescriber's best professional judgment.

31 (8) Require identification and monitoring of persons
32 who may be at risk of contracting a contagious or infectious
33 disease by virtue of contact with a contagious person
34 in a manner consistent with known or suspected modes
35 of transmission; require a person to comply with such

1 identification and monitoring efforts including efforts that
2 infringe on a person's freedom of association; or establish,
3 authorize, or enforce penalties for a person's refusal to
4 participate in the identification and monitoring efforts.

5 Sec. 2. Section 135.144, subsections 3, 5, 6, 7, and 8, Code
6 2022, are amended to read as follows:

7 3. Take reasonable measures as necessary to prevent
8 the transmission of infectious disease and to ensure that
9 all cases of communicable disease are properly identified,
10 controlled, and treated. However, such reasonable measures
11 shall not include requiring identification and monitoring of
12 persons who may be at risk of contracting a contagious or
13 infectious disease by virtue of contact with a contagious
14 person in a manner consistent with known or suspected modes
15 of transmission; requiring a person to comply with such
16 identification and monitoring efforts including efforts that
17 infringe on a person's freedom of association; or establishing,
18 authorizing, or enforcing penalties for a person's refusal
19 to participate in the identification and monitoring efforts
20 including efforts that infringe on a person's freedom of
21 association.

22 5. ~~Order~~ Recommend physical examinations and tests and
23 ~~collect the collection of~~ specimens as necessary for the
24 diagnosis or treatment of individuals, to be performed by
25 any qualified person authorized to do so by the department.
26 An examination or test shall not be ~~performed or ordered~~
27 recommended if the examination or test is reasonably likely
28 to lead to serious harm to the affected individual. The
29 department may isolate ~~or quarantine~~, pursuant to [chapter 139A](#)
30 and the rules implementing [chapter 139A](#) and [this subchapter](#),
31 any infected individual whose refusal of medical examination or
32 testing ~~results in uncertainty regarding whether the individual~~
33 ~~has been exposed to or is infected with a communicable or~~
34 ~~potentially communicable disease or otherwise poses a danger~~
35 to public health.

1 6. ~~a. Vaccinate or order~~ Recommend that individuals be
 2 vaccinated against an infectious disease and to prevent the
 3 spread of communicable or potentially communicable disease.
 4 Vaccinations shall be administered by any qualified person
 5 authorized to do so by the department. The vaccination shall
 6 not be ~~provided or ordered~~ recommended if it is reasonably
 7 likely to lead to serious harm to the affected individual. To
 8 prevent the spread of communicable or potentially communicable
 9 disease, the department may isolate ~~or quarantine~~, pursuant to
 10 chapter 139A and the rules implementing chapter 139A and this
 11 subchapter, any infected person who is unable or unwilling to
 12 undergo vaccination pursuant to this subsection.

13 b. Notwithstanding any provision to the contrary in
 14 paragraph "a", a vaccination shall not be recommended for a
 15 person pursuant to this subsection and the department shall
 16 not isolate an infected person who is unable or unwilling to
 17 undergo vaccination pursuant to this subsection if either of
 18 the following applies:

19 (1) The person, or if the person is a minor, the person's
 20 parent or legal guardian, submits to the department a statement
 21 signed by a physician, advanced registered nurse practitioner,
 22 or physician assistant who is licensed by the board of
 23 medicine, board of nursing, or board of physician assistants
 24 that the vaccination would be injurious to the health and
 25 well-being of the person or any member of the person's family.

26 (2) The person, or if the person is a minor, the person's
 27 parent or legal guardian, submits to the department an
 28 affidavit signed by the person, or if the person is a minor,
 29 the person's parent or legal guardian, stating that the
 30 vaccination conflicts with the sincerely held religious beliefs
 31 of the applicant, or if the applicant is a minor, of the
 32 applicant's parent or legal guardian.

33 7. ~~Treat or order~~ Recommend that individuals ~~exposed to~~
 34 ~~or~~ infected with disease receive treatment or prophylaxis.
 35 Treatment or prophylaxis shall be administered by any qualified

1 person authorized to do so by the department. Treatment or
 2 prophylaxis shall not be ~~provided or ordered~~ recommended if
 3 the treatment or prophylaxis is reasonably likely to lead
 4 to serious harm to the affected individual. To prevent the
 5 spread of communicable or potentially communicable disease, the
 6 department may isolate ~~or quarantine~~, pursuant to [chapter 139A](#)
 7 and the rules implementing [chapter 139A](#) and [this subchapter](#),
 8 any infected individual who is unable or unwilling to undergo
 9 treatment or prophylaxis pursuant to [this section](#).

10 8. Isolate ~~or quarantine~~ infected individuals or groups of
 11 individuals pursuant to [chapter 139A](#) and the rules implementing
 12 [chapter 139A](#) and [this subchapter](#).

13 Sec. 3. Section 135.144, Code 2022, is amended by adding the
 14 following new subsection:

15 NEW SUBSECTION. 14. Provide a link on the department's
 16 internet website for qualified individuals to submit
 17 evidence-based information regarding a public health emergency
 18 or public health disaster and for members of the public to
 19 share their experiences. The department shall adopt rules
 20 pursuant to chapter 17A to administer this subsection,
 21 including the criteria a qualified individual must meet to
 22 participate.

23 Sec. 4. Section 139A.8, subsection 4, paragraph a,
 24 subparagraph (2), Code 2022, is amended to read as follows:

25 (2) The applicant, or if the applicant is a minor, the
 26 applicant's parent or legal guardian, submits an affidavit
 27 signed by the applicant, or if the applicant is a minor,
 28 the applicant's parent or legal guardian, stating that the
 29 immunization conflicts with the ~~tenets and practices of a~~
 30 recognized sincerely held religious denomination beliefs
 31 of which the applicant is an adherent or member, or if the
 32 applicant is a minor, of the applicant's parent or legal
 33 guardian.

34 Sec. 5. Section 139A.8, subsection 4, paragraph b, Code
 35 2022, is amended to read as follows:

1 *b.* The exemptions under *this subsection* ~~do not~~ apply in
2 times of emergency or epidemic as determined by the state board
3 of health and as declared by the director of public health.

4 EXPLANATION

5 The inclusion of this explanation does not constitute agreement with
6 the explanation's substance by the members of the general assembly.

7 This bill relates to duties and powers relative to emergency
8 situations including a state of disaster emergency and public
9 health disasters.

10 The bill amends provisions relating to the proclamation of
11 a state of disaster emergency by the governor. Current law
12 provides that a state of disaster emergency shall continue for
13 30 days unless sooner terminated or extended by the governor
14 and that the general assembly, by concurrent resolution when
15 in session or through the legislative council by majority vote
16 if not in session, may rescind the proclamation. Under the
17 bill, a state of disaster emergency shall continue for 30 days
18 unless sooner rescinded, extended, or amended by the general
19 assembly, not the governor, and that any initial extension of
20 the proclamation by the general assembly shall not exceed 60
21 days, and any subsequent extension shall not exceed 60-day
22 increments. Any rescission, extension, or amendment by the
23 general assembly shall be effective upon the filing of the
24 concurrent resolution or resolution of the legislative council
25 with the secretary of state. The bill also provides that
26 if the general assembly is not in session, the legislative
27 council may, by majority vote, rescind, extend, or amend this
28 proclamation only once and any extension shall not exceed 30
29 days. Following any rescission, extension, or amendment of the
30 proclamation by the legislative council, any additional action
31 may only be taken by the general assembly.

32 The bill also provides that a measure dictated in a state
33 of disaster emergency proclamation shall not do any of the
34 following: infringe on a fundamental constitutionally
35 protected right unless the measure is justified by a compelling

1 state interest, is narrowly tailored to achieve its specific
2 purpose, and is achieved by the least restrictive means
3 possible; restrict rights, interests, or activities in a manner
4 that is not neutral or generally applicable; prohibit in-person
5 interactions between religious leaders or individuals who are
6 related by consanguinity or affinity with patients or residents
7 of hospitals or health care facilities; authorize the use of
8 mobile, cellular, or any other digital technologies to track or
9 surveil persons without providing prior notice to and receiving
10 consent from such persons; authorize the use of any drones,
11 unmanned aerial vehicles, advanced robotics, or any artificial
12 intelligence-based systems to enforce the proclamation;
13 restrict the practice of a person holding a valid license to
14 practice a health-related profession, or restrict the scope
15 of service delivery of a hospital, clinic, or health care
16 professional if the person or entity is otherwise practicing
17 within the scope of a valid license; allow a health-related
18 professional board to restrict the prescribing authority of a
19 licensed health-related professional in a way that acts as a
20 deterrent for a prescriber to use a medication or treatment in
21 accordance with the prescriber's best professional judgment;
22 or require identification and monitoring of persons who may
23 be at risk of contracting a contagious or infectious disease
24 by virtue of contact with a contagious person in a manner
25 consistent with known or suspected modes of transmission,
26 require a person to comply with such identification and
27 monitoring efforts including efforts that infringe on a
28 person's freedom of association, or establish, authorize, or
29 enforce penalties for a person's refusal to participate in the
30 identification and monitoring efforts.

31 The bill amends the duties of the department of public health
32 (DPH) relative to a public health disaster. The bill provides
33 that the reasonable measures taken by DPH to prevent the
34 transmission of infectious disease and to ensure that all cases
35 of communicable disease are properly identified, controlled,

1 and treated shall not include requiring identification and
2 monitoring of persons who may be at risk of contracting a
3 contagious or infectious disease by virtue of contact with
4 a contagious person in a manner consistent with known or
5 suspected modes of transmission; requiring a person to comply
6 with such identification and monitoring efforts including
7 efforts that infringe on a person's freedom of association;
8 or establishing, authorizing, or enforcing penalties for a
9 person's refusal to participate in the identification and
10 monitoring efforts including efforts that infringe on a
11 person's freedom of association. DPH may recommend, but not
12 order, physical examinations, testing, and the collection
13 of specimens necessary for the diagnosis and treatment of
14 individuals and may isolate only infected individuals who
15 refuse medical examination or testing and who pose a danger
16 to the public health. DPH may recommend, but not vaccinate
17 or order that individuals be vaccinated against an infectious
18 disease or to prevent the spread of communicable or potentially
19 communicable disease. Vaccination shall not be recommended if
20 it is reasonably likely to lead to serious harm to the affected
21 individual. DPH may isolate only infected individuals who
22 are unable or unwilling to undergo vaccination. However, the
23 bill provides that a vaccination shall not be recommended for
24 a person under this provision of the bill and that DPH shall
25 not isolate an infected person who is unable or unwilling
26 to undergo vaccination pursuant to the bill if either of
27 the following applies: the person, or if the person is a
28 minor, the person's parent or legal guardian, submits to
29 DPH a statement signed by a physician, advanced registered
30 nurse practitioner, or physician assistant who is licensed
31 by the board of medicine, board of nursing, or board of
32 physician assistants that the vaccination would be injurious
33 to the health and well-being of the person or any member
34 of the person's family; or the person, or if the person is
35 a minor, the person's parent or legal guardian, submits to

1 DPH an affidavit signed by the person, or if the person is
2 a minor, the person's parent or legal guardian, stating that
3 the vaccination conflicts with the sincerely held religious
4 beliefs of the applicant, or if the applicant is a minor, of
5 the applicant's parent or legal guardian.

6 DPH may recommend, but not treat or order, that individuals
7 infected with disease receive treatment or prophylaxis.
8 Treatment or prophylaxis shall not be recommended if the
9 treatment or prophylaxis is reasonably likely to lead to
10 serious harm to the affected individual. DPH may isolate only
11 individuals infected with disease who are unable or unwilling
12 to undergo treatment or prophylaxis and may isolate only
13 infected individuals or groups of individuals.

14 The bill requires DPH to provide a link on the department's
15 internet website for qualified individuals to submit
16 evidence-based information regarding a public health emergency
17 or public health disaster and for members of the public to
18 share their experiences. The department shall adopt rules
19 pursuant to Code chapter 17A to administer the bill, including
20 the criteria a qualified individual must meet to participate.

21 The bill amends provisions relating to the immunization of
22 children to provide that if a child is exempt from vaccination,
23 the exemption applies during times of emergency or epidemic and
24 provides that the religious exemption is based on the sincerely
25 held religious beliefs of the applicant, or if the applicant is
26 a minor, of the applicant's parent or legal guardian, rather
27 than based on a conflict with the tenets and practices of a
28 recognized religious denomination of which the applicant is an
29 adherent or member.